

## **KNOW YOUR RIGHTS**

### **Workplace Rights**

#### **OFCCP Protects You from Discrimination at Work**

##### **1. What is employment discrimination?**

Employment discrimination generally exists where an employer treats a qualified applicant or employee less favorably merely because of the person's race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. It may exist where an employer's seemingly fair policies or procedures have a discriminatory impact on members of particular groups. It may also occur if an employer disciplines, terminates, or in any other way discriminates against an employee or job applicant for discussing or asking about pay. Employment discrimination can be against a single person or a group.

##### **2. What are my rights?**

You have the right to work in an environment free of discrimination. You cannot be denied employment, harassed, demoted, terminated, paid less, or treated less favorably because of your race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. You also have the right to discuss, disclose or inquire about your pay, the pay of your co-workers, and the pay provided or offered to job applicants. However, if you have access to the compensation information of other employees or applicants as a part of your essential job functions, you may not disclose their compensation to individuals who do not otherwise have access to this information, unless such disclosure is in response to a formal complaint or charge, is in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

##### **3. Does OFCCP enforce anti-discrimination laws?**

Yes. OFCCP enforces Executive Order 11246, Section 503 of the Rehabilitation Act, and the Vietnam Era Veterans' Readjustment Assistance Act. These laws make it illegal for companies doing business with the Federal Government to discriminate against applicants and employees based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Discrimination based on compensation inquiries, discussions, or disclosures is also prohibited. Employment discrimination is prohibited in any aspect of employment, including hiring, firing, pay, benefits, job assignments, promotions, layoffs, training, and other employment related activities.

To protect your rights, you should contact OFCCP promptly if you suspect you are a victim of discrimination. You may contact OFCCP via any of the contact information provided below.

#### **4. Does OFCCP protect all employees?**

No. OFCCP enforces laws that protect the rights of applicants and employees of companies doing business with the Federal Government. These companies must not discriminate based on race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or a person's status as a protected veteran. Approximately 20 – 25 percent of the American workforce is employed by companies that do business with the Federal Government. This includes employees at banks, meat packing plants, retail stores, manufacturing plants, accounting firms, and construction companies, among others, working on federal and/or federally- funded projects.

#### **5. How do I know if I am being discriminated against?**

Discrimination may take many forms and it does not have to be intentional to be illegal. Generally, there are two types of discrimination that the law prohibits:

**Disparate treatment** occurs when an employer treats an applicant or employee less favorably than similarly situated applicants or employees, and the different treatment is because of the person's race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran.

**Disparate impact** occurs when an employer has policies or practices that appear fair and are evenly applied but have a discriminatory impact on members of a particular sex, race or ethnic group, individuals with disabilities, or other protected groups.

#### **6. What does “similarly situated” employee mean?**

The term “similarly situated” has a specific legal meaning but generally it refers to an employee who can be compared to another employee because he or she holds a similar job classification, comparable duties, skills and training, and is subject to the same standards.

#### **7. What are some examples of illegal employment discrimination?**

Some examples of employment discrimination may include:

- Assigning all Hispanic employees to a particular work area;
- Paying women less than men for the same work;
- Teasing employees who speak with an accent that goes beyond occasional or a single incident;
- Promoting only certain employees based on their sex or race;
- Requiring tests, like math tests or lifting requirements, that are not related to doing the job but that screen out applicants of particular groups;

- Denying paid sick leave to female employees recovering from childbirth but allowing paid sick leave for employees recovering from knee surgery; and
- Firing an employee for discussing her pay with a co-worker.

## **8. Are employment tests legal?**

Yes. Employment tests can be used to make employment decisions if the tests are administered fairly and do not discriminate. Employment tests are unlawful if they disproportionately exclude members of particular groups, and the employer cannot show that the tests are job related and consistent with business necessity. For example, tests that exclude members of a particular sex, race or ethnic group, national origin, religion, or other group protected by the laws OFCCP enforces would have to be based on a legitimate job-related or business need.

## **9. How do I file an employment discrimination complaint?**

You may file a discrimination complaint by:

- Completing and submitting a form online through OFCCP's Web site;
- Completing a form in person at the OFCCP office nearest to where you live or work; or
- Mailing or faxing a completed form to the OFCCP regional office that covers the state where you live or work.

Additional information on how to file a complaint and copies of the complaint form are available online at <http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm>. Paper copies of the form are also available at all OFCCP offices. To find the office nearest you, visit the online listing of OFCCP offices at <http://www.dol.gov/ofccp/contacts/ofnation2.htm>.

## **10. Can I be fired for filing a complaint?**

No. Employers cannot retaliate against you for filing a complaint or participating in an investigation. You are protected from harassment, intimidation, threats, coercion, or discrimination for asserting your rights.

## **11. Can I file a complaint with OFCCP and Equal Employment Opportunity Commission (EEOC)?**

Yes. If you file with both OFCCP and EEOC, your complaint will be investigated by only one of these agencies.

OFCCP generally keeps complaints filed against federal contractors where there appears to be a pattern of discrimination that affects a group of employees or applicants. OFCCP also generally

keeps complaints filed against federal contractors that allege discrimination based on discussing, disclosing, or inquiring about pay; a person's sexual orientation or gender identity; disability; or protected veteran status.

OFCCP refers certain individual employment discrimination complaints to EEOC to avoid duplication of effort and to assure effective law enforcement.

**12. What will happen if there is a finding that I was a victim of employment discrimination?**

You may be entitled to a remedy that will place you in the position you would have been in if the discrimination had never happened. You may be entitled to hiring, promotion, reinstatement, back pay, a pay raise, or reasonable accommodation, including reassignment.

**13. What do I do if I think my employer, who does business with the Federal Government, is discriminating against me?**

If you think you have been discriminated against in employment, or in applying for employment, please contact us at:

The U.S. Department of Labor  
**Office of Federal Contract Compliance Programs**  
Washington, D.C. 20210  
1-800-397-6251  
OFCCP-Public@dol.gov  
[www.dol.gov/ofccp](http://www.dol.gov/ofccp)

*Please note that this fact sheet provides general information. It is not intended to substitute for the actual laws and regulations regarding the program described herein.*

200 CONSTITUTION AVENUE NW | WASHINGTON, DC 20210 | tel: 1-800-397-6251 |  
TTY: 1-877-889-5627 | [www.dol.gov/ofccp](http://www.dol.gov/ofccp)